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## **The Rise of the Machine**

*How a small group of politicians and corporations bought themselves a legislature*

**BY JAKE BERNSTEIN AND DAVE MANN**

The facts are widely known. An unprecedented coordination between the Republican administration and big corporate interests held the country tightly in its grip. In most instances, the machine simply enjoyed the exercise of raw power with little effort to justify its actions. Come election time though, the party of privilege and its moneyed patrons drowned out opponents with the sheer volume of their propaganda. Never before had so many dollars been spent to mass-market a political image. Above all, the machine pushed the message that it was the true guardian of patriotism, indistinguishable from the Stars and Stripes. Then, once in power, it opened the public treasury to a rapacious corporate elite.

As conditions worsened for a growing underclass, the victims of the system felt powerless to change it. Several years back, an effort to organize a viable national third political party to counter the corporate control had failed. And now, business lobbyists dictated the law at every level. Legislation was cooked behind the closed doors of private clubs and then passed into law. While the lobby fought ferociously against any check on its prerogatives, it had a special distaste for new corporate taxes. Aided by its legislative enablers, the corporate elite indulged in a natural inclination toward monopoly—especially when it came to media and transportation.

In Texas in 1905—about the time all this was happening—miraculously, some reform crept through the state legislature. Farmers, laborers, women, and prohibitionists had joined together to make the Lone Star State one of the centers of the populist movement. To stymie them, business lobbied the legislature under the umbrella of the Federated Commercial Clubs of Texas. Despite the FCCT's efforts, during the 1905 legislative session the reformers passed laws to raise taxes on the intangible assets of corporations, to tax the gross receipts of insurance companies, and to create franchise taxes on the stock and profits of corporations.

Without doubt one of the most meaningful reforms of the period came during a special session that year. Rep. Alexander Watkins Terrell, a former brigadier general, spearheaded legislation to prohibit corporate donations to political campaigns. Terrell hoped to starve what he called the "corrupt machine politicians" who gorged themselves on special interest money. The law would also protect shareholders. It stopped company officers from using corporate funds to contribute to political races without stockholder consent. The Texas measure predated a similar prohibition at the federal level by two years. But unlike the federal law, which would simply ban corporate money, the Texas

statute also prohibited "in-kind" gifts of goods and services such as office space, staff time, and polls.

Fast-forward almost 100 years. In Austin, Texas, home to the Public Integrity Unit of the Travis County District Attorney, a grand jury is empanelled. Its mission is to investigate one of the most audacious electoral efforts seen in Texas since Lyndon Johnson stole the 1948 U.S. Senate election from Coke Stevenson. The inquiry revolves around whether business leaders and Republicans—including possibly U.S. House Majority Leader Tom DeLay (R-Sugar Land)—conspired to break state law to funnel corporate cash into local elections. At the center of the scheme is the Texas Association of Business (TAB), which purports to represent business and chambers of commerce, but in reality has become a de facto appendage of the Republican Party.

Although Travis County District Attorney Ronnie Earle launched his inquiry in December 2002, TAB lawyers have prevented a complete airing of the facts, delaying the grand jury's work with a series of appeals. While the full picture of the multi-million-dollar operation has yet to be revealed, what is beyond dispute are the results of the machine's activities. In 2002, for the first time in 130 years, Republicans won a majority of seats in the Texas House. These winning candidates did not resemble your grandmother's GOP. By systematically marking for elimination moderate Republicans in contested primaries, the TAB and DeLay furnished a right-wing majority guaranteed to elect their anointed candidate for Speaker of the House, Tom Craddick (R-Midland). What transpired in the legislative session that followed is public record. Under Craddick, wielding his Republican majority like a cudgel, the Texas House passed legislation that saved their corporate patrons hundreds of millions, if not billions, of dollars.

Those who know Bill Hammond characterize him as "a true believer." The 55-year-old president of the Texas Association of Business fought for Republican causes like deregulation and school testing long before they were fashionable. During the campaign, he was the frontman for the TAB's electoral strategy. Hammond flew around the state shaking down corporate executives. And after the election, he could be seen hovering outside the legislative chamber as lawmakers enacted the TAB's agenda. Currently, TAB lawyers are engaged in a tenacious struggle to keep Hammond from having to testify before the Travis County grand jury. Even though some doubt whether the tall and portly president deserves the credit for authorship of the TAB plan, if there is to be a fall guy in this tale of alleged wrongdoing, it could well be him.

The former owner of an awning company, Hammond served four terms in the Texas Legislature in the early 1980s. It was a good time to be a state representative. The economy was booming. Hammond became close with a tight-knit group of fellow members who shared both youth and a conservative ideology. A number of them lived in a house they dubbed "Macho Manor." And while the thought that some day they would become the political bosses of Texas would have been laughable then, that is in fact what happened.

The class of 1983 in the Texas House included Hammond, Tom DeLay, Tom Craddick, the current Speaker's gatekeeper-lobbyist Bill Messer, Republican consultant Bill Ceverha, and Gov. Rick Perry's chief of staff Mike Toomey. By the following session DeLay had moved on to Congress and a future governor, Rick Perry, then a West Texas Democrat, joined the group.

Twenty years later, these players—and some new faces—were in place to create a political dynasty. Karl Rove, with an assist from the U.S. Supreme Court, had deftly maneuvered George W. Bush into the White House. Tom DeLay was soon to become U.S. House Majority Leader. His vindictiveness, unmatched even in Washington, D.C., had earned him the nickname, "The Hammer." DeLay's ability to control a seemingly endless flow of campaign cash made him one of the most powerful politicians in Washington.

Perry had switched parties, scaled the steps of Texas politics, and slid into the governor's mansion in January 2001 as a replacement for George W. Bush. His close friend Mike Toomey was one of the most influential lobbyists in Austin with a client list that included among others AT&T, large insurance companies, and Enron. The long-suffering Tom Craddick had risen to Republican caucus chair and desperately wanted to be House Speaker. A cadre of former legislators-turned-lobbyists, all seemingly named Bill, stood ready to volunteer their expertise and reap the rewards of victory.

The stage had been set. Thanks to Rove, Bush, and Democratic bungling, Texas had tacked hard to the right. For years, Texas Republicans struggled to displace the Democratic majority in the statehouse. Leading the charge was the Houston-based Texans for Lawsuit Reform (TLR). The group had funded loosely organized attempts to overthrow Speaker Pete Laney (D-Hale Center), whom they believed had not sufficiently embraced tort reform. Not only would such legislation free business from costly lawsuits, it was a natural for Republicans since it targeted a pillar of Democratic funding: trial lawyers. TLR and the TAB had joined for the first time in 2000 to oust Laney, spending \$1.4 million and \$30,000 respectively. They had whittled the Democratic edge in the House down to six seats but had fallen short of total victory.

The 2001 legislative session, coinciding as it did with the census, brought redistricting. During the session the Republican-controlled Senate stopped a House redistricting plan. This allowed a GOP-dominated legislative redistricting board to draw a highly favorable map. But even with legislative districts slanted in their favor, the machine needed a big margin of victory in order to install Craddick as Speaker and not some moderate Republican.

In a press release immediately after the November, 2002 general election, Hammond would recount boastfully: "There was a unique opportunity to change the face of the legislature. [TAB] made a decision to participate on an unprecedented level. That is why at the close of the session in 2001, TAB devoted all its efforts to raising money to promote pro-business candidates in key House and Senate races."

The TAB needed money quickly and in a quantity most easily found through corporate sources. Under Terrell's 1905 law, a corporation can't spend its own money for non-administrative election activities, even for its own political action committee. Hammond desperately wanted to tap corporate funds. But how to spend that money and not run afoul of the law? The TAB couldn't use its regular political action committee. State law makes it a third-degree felony to knowingly give corporate money directly to a candidate.

TAB lawyers advised that the group could promote the candidates it liked and vilify those it did not simply by using "issue ads." TAB lawyer Ed Shack explained in a letter to potential donors that federal courts had ruled that independent organizations like the TAB could legally produce "issue ads" with corporate money so long as the mailers were

designed simply to educate voters—not advocate for the election or defeat of a candidate. It's a fine line. The TAB would naturally be advocating for Republican candidates. (The organization did endorse one Democrat: John Sharp, a candidate for Lieutenant Governor who seemed guaranteed to win election but instead lost to David Dewhurst.)

The trick, according to Shack, was to avoid certain "magic words," which some federal courts have defined as obvious "express advocacy," words and phrases such as "vote for," "elect," "cast your ballot for," "defeat," and so on. As long as the TAB avoided these magic words, corporate-funded direct mail, phone banks, push polls, or any other election effort could say just about anything. Although the TAB availed itself of all the different means of expressing its views, the group focused primarily on glossy, lushly colored mail pieces. Finally, Shack explained, the campaign had to be truly independent. The TAB couldn't coordinate with Republican campaigns on the timing and content of corporate-funded mailers. Such coordination would constitute in-kind contributions, an illegal use of corporate money for campaign activities. If it followed these two guidelines, Shack wrote, the TAB could legally use corporate money for its attack ads and never divulge the origin of the cash.

But, as Shack noted, there was one caveat: The legal definition of express advocacy is not clear. The U.S. Supreme Court has never defined it, though it may do so this fall when it rules on the McCain-Feingold campaign finance law. By clinging to the so-called magic words test, the TAB took a calculated risk.

In the general election, the TAB targeted 22 House races and two Senate races for its issue ads, spending a total of \$1.9 million in corporate money. But the TAB was not the only entity funneling corporate cash to the same group of Republican candidates.

On September 5, 2001, Tom DeLay formed an Austin-based political action committee whose mission was stated plainly in its name—Texans for a Republican Majority (TRM). TRM was a carbon copy of DeLay's Americans for a Republican Majority PAC that has helped elect conservatives to the U.S. House for years. DeLay appointed one of his top aides, Jim Ellis, a director of TRM. The group's treasurer was Bill Ceverha, another well-connected former Republican lobbyist who, while a member of the House, co-founded the Texas Conservative Coalition. Ceverha works principally on behalf of Dallas businessman Louis Beecherl, one of the state's biggest Republican benefactors. Beecherl first hired Ceverha in 1988, when Beecherl successfully killed a Dallas light-rail referendum.

Candidate (Bold=Winners)	TAB PAC	TRM PAC	ARM PAC	RNSEC PAC	TLR PAC	Bob Perry	Subtotal	Total Raised	Subtotal Share of Total
Nelson H. Balide		\$18,778			\$1,000	\$72,500	\$92,278	\$214,752	43%
<b>Todd A. Baxter</b>	\$500	\$22,434	\$2,000	\$35,000	\$30,722	\$7,500	\$98,156	\$637,511	15%
Ben Bentzin					\$115,890	\$62,500	\$178,390	\$626,131	28%
<b>Dwayne A. Behac</b>	\$1,000	\$11,290	\$2,000	\$20,000	\$22,222	\$12,500	\$69,012	\$268,787	26%
<b>Betty J. Brown</b>	\$1,000	\$23,000	\$5,000		\$16,792	\$15,000	\$60,792	\$172,632	35%
<b>Walter W. Christian</b>	\$500		\$2,500		\$15,000	\$23,000	\$41,000	\$208,923	20%
<b>Byron Curtis Cook</b>	\$1,000	\$20,662			\$25,188	\$13,500	\$60,350	\$303,694	20%
<b>Glenda L. Dawson</b>	\$1,500	\$31,056	\$1,000	\$40,000	\$1,000	\$34,000	\$108,556	\$199,916	54%
<b>Robert F. Deuell</b>	\$4,500		\$10,000		\$390,222	\$192,500	\$592,222	\$1,118,355	53%
<b>Dan Flynn</b>	\$1,500	\$23,580		\$64,000	\$52,500	\$8,000	\$149,580	\$229,761	65%
<b>Halt E. Getterman</b>	\$12,395	\$33,706	\$2,000		\$49,398	\$11,000	\$108,499	\$383,760	28%
<b>Rick Green</b>	\$37,068	\$27,815	\$2,500	\$20,000	\$31,559	\$19,000	\$137,943	\$454,798	30%
<b>Michael Hamilton</b>	\$1,500	\$36,369	\$1,000		\$58,125	\$11,000	\$107,994	\$233,514	46%
<b>Richard Hardcastle</b>	\$1,000	\$10,000	\$2,500		\$74,787	\$25,000	\$113,287	\$237,842	48%
<b>D. Bryan Hughes</b>	\$2,000	\$65,087	\$1,000				\$68,087	\$141,923	48%
<b>Kenneth B. Mercer</b>	\$500	\$5,939			\$48,500	\$15,000	\$69,939	\$172,534	41%
<b>Sidney C. Miller</b>	\$1,000	\$53,245	\$10,000		\$106,158	\$15,500	\$185,903	\$676,444	27%
<b>Dianne L. Roberts</b>	\$500	\$53,224				\$25,000	\$78,724	\$150,350	52%
<b>Eugene J. Seaman</b>	\$14,600	\$31,610	\$2,500		\$50,500	\$15,000	\$114,210	\$407,094	28%
<b>Edward Shamburger</b>	\$3,000	\$25,793	\$1,000			\$2,500	\$32,293	\$47,576	68%
<b>Jack Stick</b>	\$12,523	\$46,579	\$1,000	\$35,000	\$20,500	\$7,500	\$123,102	\$263,869	47%
<b>Larry Taylor</b>	\$15,258	\$55,124	\$1,000	\$20,000	\$23,989	\$27,500	\$142,870	\$272,646	52%
<b>Martha J. Wong</b>	\$1,000	\$44,351			\$73,980	\$27,500	\$146,831	\$543,406	27%
<b>TOTALS:</b>	<b>\$113,844</b>	<b>\$639,642</b>	<b>\$47,000</b>	<b>\$234,000</b>	<b>\$1,208,032</b>	<b>\$642,500</b>	<b>\$2,885,018</b>	<b>\$7,966,218</b>	<b>36%</b>
<b>With TAB's \$1.9 million corporate issue-ad expenditures:</b>							<b>\$4,765,018</b>	<b>\$9,666,218</b>	<b>48%</b>

This chart, courtesy of Texans for Public Justice, shows how money from the machine played an integral part in the election of the above candidates. Note: Data covers 2002 cycle contributions through November 5 (post-election "late-train" money excluded). PAC donors are Texas Association of Business (TAB), Texans for a Republican Majority (TRM), Americans for a Republican Majority (ARM), Republican National State Elections Committee (RNSEC), and Texans for Lawsuit Reform (TLR).

Later in the fall of 2001, TRM received \$50,000 in seed money from DeLay's Americans for a Republican Majority PAC, and \$25,000 each from Ceverha's boss Beecherl and Houston construction magnate Bob Perry. Perry (no relation to the governor) is an ardent opponent of the civil justice system, and not surprisingly, a perpetual focus of lawsuits. He was the largest individual Republican donor in the 2002 cycle, writing close to \$4 million in checks to various Republican campaigns and PACs.

But exactly how much money flowed through Texans for a Republican Majority depends on which documents you look at. According to IRS documents, TRM received \$1.5 million in contributions and spent \$1.4 million during the 2002 election cycle. That's nearly double what TRM told the state ethics commission it raised and spent, even though the Austin-based TRM was actively involved in Texas campaigns and bound by state disclosure laws. But there's more going on here than reporting errors. Of the \$751,285 in contributions TRM didn't report to the state, at least \$602,300 (80 percent) was corporate money. This creates the appearance that DeLay's PAC may have poured illegal corporate money into Texas campaigns and hid it from state election officials.

DeLay aide Jim Ellis insists there is a simple explanation for the discrepancy between what TRM reported to the state ethics commission and what it filed with the IRS. TRM, he says, operated with two distinct accounts. One account, known as TRMPAC, functioned like any other PAC, raising hard-money contributions from individuals and other PACs and using that money for electioneering—all of it reported to the Texas Ethics Commission. The other account was registered with the IRS. It housed \$751,285 in mostly corporate (or soft) money that went for "administrative expenses," which he says doesn't need to be reported on the state level.

Campaign watchdogs disagree. While some of TRM's corporate money was used for legitimate administrative expenses, much of it went for political polls and consultants.

Critics argue that is electioneering and should be paid for with hard money. Using corporate cash for polling and consultants allowed TRMPAC to spend more hard money on donations directly to candidates, potentially an in-kind contribution. "If political workers, consultants and polls are 'administrative expenses' then there is no corporate prohibition in Texas," asserts Fred Lewis of Campaigns for People. "No state has ever interpreted administrative expenses as political workers or political goods and services."

At first glance, it's easy to underestimate Jack Stick. At 37, he has boyish good looks and often wears slightly oversized suit jackets that give him the look of a child play-acting politician. But that exterior belies the tenacity of a man who served nine years as a local and federal prosecutor. In 2001, Stick leapt into the Republican primary for the newly created House District 50 that spans the conservative-leaning suburbs north of Austin.

"I knew I was going to win," Stick says. "I believed if I talked to enough people and told them what I wanted to do and what my ideas were, they would give me a shot."

One of the few people who seemed to share Stick's optimism was lobbyist Mike Toomey, who gave an early \$500 contribution. To most observers, though, Stick's initial run for office looked doubtful. Stick was a young political novice unknown to most voters. His campaign lacked the money necessary to overcome that anonymity. Relying on his own savings and donations from his friends, Stick spent \$24,000 in the month before the primary. In a competitive four-way Republican primary that included Bob Richardson, a well-funded former state legislator, Stick seemingly had little chance.

And indeed, Richardson handily won the first round of voting on March 12, 2002. Stick finished second, outlasting businesswoman Kris Gillespie by a mere 90 votes to squeak into a runoff with Richardson. The second round of voting was just a month away. Stick again faced long odds. But that's when Stick's fortunes began to turn.

In early April, Stick found himself on the receiving end of a \$5,000 contribution from Texans for a Republican Majority PAC. TAB's political action committee chipped in \$1,000. Texans for Lawsuit Reform added \$500 and Bob Perry gave \$2,500. Then came the mailers. The TAB and its political action committee flooded the district with five separate attack ads against Richardson. One lambasted the conservative Republican as a liberal personal injury attorney. Another labeled him a "wolf in sheep's clothing." "Bob wants you to think he's a Republican, but the truth is that Bob makes a living off of suing people," the ad read. "Bob Richardson is one wolf we need to keep out of the Texas Legislature." DeLay's PAC mailed out its own pro-Stick flier. It was clear that the machine had decided Stick was its boy.

On April 9, 2002, Stick—a lost-cause candidate just two months before—routed Richardson in the runoff election, winning 69 percent of the vote to reach the general election. (Almost half of the \$326,652 Stick received for the general election came from the machine.) Stick insists that he is not someone else's creation. "Did I talk to the TAB or Texans for a Republican Majority in terms of coordination? Absolutely not," he says.

Stick wasn't the only candidate in the primary to receive the machine's largesse. The TAB and TRM backed candidates in 54 Republican primaries. The groups' money and mailers carried 48 of those candidates to victory. In the runoff, the TAB and TRM targeted 12 runoff races in the same way. Nine of the 12, including Stick, reached the general election. In all, the TAB claims to have sent out more than 500,000 pieces of mail

during the primary season in support of its select group of Republicans. (Thomas Graphics, an Austin-based outfit with close ties to Karl Rove, printed those mailers, and all subsequent TAB ads.)

The TAB paid for its primary campaigning out of two separate accounts. One belonged to the TAB's political action committee, the Business and Commerce PAC (or, more hilariously, BACPAC). This account seemingly operated as any PAC would, using legal hard-money contributions from individuals and other PACs for campaign activities. But the TAB also used a second account, its general operating fund, to pool corporate cash for a series of attack ads. It refuses to divulge the identities of the donors or how much they gave to this account.

Many of the primary mailers—including four of the anti-Richardson ads created to aid Stick—were paid for by BACPAC. According to state records, BACPAC spent just \$40,000 on the primary campaign. In fact, Hammond was never all that successful raising money from individual donors for BACPAC, taking in a measly \$135,000 in hard money during the 2002 election cycle. Tapping corporations with the promise that their contributions would remain anonymous proved much easier. While it's impossible to know how much money the TAB spent in the primary, since it's unreported, Hammond later bragged in a fund-raising letter that "the voter education direct mail program we implemented in the March primary was made possible with corporate money."

Some of that corporate money may have come by way of TRM. In April 2002, TRM paid \$10,200 into the TAB's corporate fund, according to campaign documents. This payment, which most news accounts have overlooked, indicates TRM knew of and contributed to the TAB's corporate-funded mailer campaign. It also shows the two groups were likely working closely together in their primary efforts. "We certainly liked the program they were doing," says DeLay aide Ellis, who characterized the two organizations as "allies."

If in fact there was coordination between the political action committees and the TAB's secret account, it helps make the case that this was a partisan conspiracy designed to funnel illegal corporate cash to a specific slate of candidates.

For its part, TRM dumped more than \$200,000 on the primaries between January and April 2002, according to federal records. Among the expenditures was more than \$13,400 in payments to the Rove-linked Thomas Graphics, presumably for TRM's own direct mail campaign, including its one pro-Stick flier. The effect of these combined efforts was clear: The TAB, TRM, and Texans for Lawsuit reform had hit on a winning formula that cemented their grip on the Republican Party. So when the November general election rolled around, the Republican representative in almost every race would be a TAB-TRM candidate. Said one political observer, "What they did in the primary was a practice run for the general election."

On August 21, 2002, TAB president Bill Hammond delivered a letter to a statewide conference of insurers. The missive, circulated to representatives of the state's major insurance companies—State Farm, Allstate, USAA, and Farmers—was at once a call to arms and a plea for cash.

"As you know, the Texas Association of Business launched a successful voter education project during the March primary," the letter began. "Through a highly-targeted direct

mail program, TAB made Texas voters aware of the voting records of a number of legislators—both good and bad. The November election is upon us, and we are preparing to do battle once again. There are at least 15 races that we plan to target. Every race we target will have two to four separate mail pieces. Each mailing will cost approximately \$17,500. While this program is costly, there is no doubt that this is a real opportunity to make a difference in the political climate in Austin."

That last line likely caught the attention of many of the assembled executives. After all, it had been a tough year for the insurance industry in Texas. Profits were in free-fall, and the big four insurers had jacked up homeowners and car insurance rates, in some cases as much as 110 percent. The state was descending into a full-blown insurance crisis: Farmers stopped writing homeowners policies and threatened to abandon the Texas market entirely. Insurance executives argued the rate hikes were caused by too many mold and water claims. In reality, independent analysts largely agreed the industry had lost big in the stock market and wanted to recoup losses by passing them onto consumers.

Democrats and some moderate Republicans were calling for real reform: forced rate rollbacks that could cost the insurance companies millions. If ever an industry needed the right political allies in power, it was Texas insurance companies in 2002. And, as luck would have it, here was Hammond asking them for money.

Hammond wrote in his August 21 letter that the TAB had raised \$650,000 for its planned "voter education program" in the general election and hoped to reach a million. "I hope you will consider asking your colleagues in the insurance industry to write a check for \$50,000 or \$100,000 to the TAB voter education effort." Just so they were clear what kind of campaign this was, Hammond added, "Contributions for this purpose are not reportable."

During the next two months, the TAB raised \$1.3 million in corporate money for its mailer campaign. It's impossible to know which companies contributed since the TAB won't release its donor list. But it's likely money came from the big four insurance companies. Farmers spokesperson Michelle Levy strenuously denied that the company donated money to the TAB's effort. Even if that's true, Farmers helped finance the machine in other ways.

Three months before Hammond's letter to the insurance industry, in May 2002, an executive at Westar Energy discovered his company was about to make a political donation that, on its face, seemed rather odd. Westar Executive Vice President Douglas Lake didn't understand why his Kansas-based energy company with no operations in Texas and no stake in the state's elections would give \$25,000 to a Texas congressman's PAC that operates solely in Texas campaigns.

"DeLay is from TX. What is our connection?" Lake emailed a colleague. Westar Vice President Douglas Lawrence responded that contributions to DeLay, Texas Republican Joe Barton, Billy Tauzin (R-La), and Sen. Richard Shelby (R-Ala.) were necessary to get "a strong position at the table" during a House-Senate conference committee hammering out a federal energy bill, according to documents unearthed by a federal investigation and first reported by The Washington Post. Westar wanted language added to the final bill exempting the company from certain forms of regulation. Even though Westar has no connection to Texas, the company needed DeLay's approval. The price, Westar



executives were allegedly told, would be a \$25,000 contribution to DeLay's TRM. Lawrence wrote, "DeLay is House Majority Leader. His agreement is necessary before the House conferees can push the language we have in place in the House bill."

Once Westar made all the donations, Barton slipped the desired Westar exemption into the energy bill. (When Westar came under federal investigation several weeks later, Barton quietly removed the language.) Though all four legislators flatly deny that Westar money bought legislation, Westar executives were clearly under the impression that a certain amount of cash sent to the right places, in fact, would get them what they wanted. The incident not only reveals the implied quid pro quo between corporate campaign cash and legislation, but it also illustrates DeLay's power.

It isn't hard to imagine that many other non-Texas TRM contributors—such as the Washington, D.C.-based Alliance for Quality Nursing Home Care (\$100,000), a consortium of 11 for-profit nursing home companies; Questerra Corp. (\$50,000), a Richmond, Va.-based energy firm; and California-based Perfect Wave Technology (\$15,000)—probably found themselves in a similar position as Westar.

Those in the Texas market likely saw the efficacy of DeLay's goals immediately. The Farmers employee PAC was one of TRM's biggest benefactors, donating \$150,000 in the 2002 cycle, according to state records.

Insurance companies weren't the only ones to sign onto the TAB/TRM plan. AT&T was another firm desperate for a more friendly legislature. It was widely known that telecommunications giant SBC would push a deregulation bill during the 2003 session to dislodge AT&T from Texas' high-speed Internet market. This would have been a disaster for AT&T. High-speed Internet service is the crown jewel of the telecom industry, and ceding the Texas market to SBC would have cost AT&T billions. In the past, locally based SBC always got what it wanted in the Texas statehouse. Fortunately for AT&T, it had hired as a lead lobbyist a man who could tether AT&T's fortunes to the prospective Republican leadership—Mike Toomey.

AT&T spokesman Kerry Hibbs confirmed that AT&T donated corporate money to the TAB during the 2002 election cycle. "We don't know what they used it for," he said. He declined to say how much AT&T contributed. Federal and state records show AT&T gave \$20,000 to TRM.

By most accounts, Rep. Ann Kitchen had a remarkably successful freshman term in 2001. The west Austin Democrat earned accolades in the Capitol for yeoman's work on prompt pay and medical privacy bills. But in 2002, a stellar record would not be enough.

Kitchen knew it would be a tough fight to win reelection. The GOP-controlled legislative redistricting board redrew her district to not only make it more Republican, but removed her home from it. Kitchen had to rent an apartment in the district in order to qualify as a resident. She knew her opponent, Todd Baxter, a former county commissioner, would likely be well funded by wealthy Republican backers. And although the Austin American-Statesman had endorsed her as "a proven success," the Texas Association of Business had not been as kind.

In October 2001, the TAB, for the first time in its 75-year history, had released a legislative scorecard. In its ranking, the average score for Democrats was 37 percent while Republicans received an average score of 89 percent. The scorecard sparked public

condemnation from some chambers of commerce along the border and several canceled their memberships. Under the TAB ratings, Ann Kitchen scored 27 percent.

The TAB would use the ratings to great effect as part of its "issue" campaign against Democrats. "You don't want to be seen as anti-business, especially in swing districts," notes one member of the Democratic coordinated campaign.

A year after the release of the scorecard, with the election less than a month away, Baxter sent out mail pieces in the district attacking Kitchen's record on state spending. Kitchen, in order to counter what she describes as misleading information, left recorded phone messages for voters. The very next day, a TAB phone bank also left messages directing voters to call it to learn "the truth about Ann Kitchen's spending [and] taxes." On another occasion, Baxter sent a positive mailing outlining his stance on education. By the next day, voters received a mailer from the TAB attacking Kitchen's position on education.

Kitchen believes these two incidents demonstrate that the TAB at some level coordinated its advocacy campaign with Baxter, which would be illegal. "On the face of it, that all required coordination of message and timing," she says.

Baxter denies that there was any coordination. "[The TAB] had independent expenditures that were totally unrelated to my campaign," he insists.

These two incidents were both submitted by Kitchen to the grand jury in the form of an affidavit. The former representative is also a party to one of three civil suits against the TAB and TRM for their conduct during the election. It's litigation, Andy Taylor, the TAB's lawyer never misses a chance to characterize as "losing-candidate lawsuits."

Taylor is a prime example of the incestuous nature of the TAB/TRM effort. It extends to family members of those involved and goes all the way to the White House through Karl Rove. In 2001, Taylor worked for then-Attorney General and Rove protege John Cornyn in the Republican redistricting effort. He then left to join the law firm of Locke Liddell and Sapp that represents Texans for Lawsuit Reform. Soon after, Cornyn hired Taylor to do the same redistricting work he did as a state employee, this time paying Locke Liddell and Sapp \$804,478. Now Taylor is the chief lawyer and spokesman for the TAB. He also represents TRM in the civil lawsuits. This summer, Taylor is again the state's outside counsel on congressional redistricting.

Tom DeLay is another example. He picked his daughter Danielle Ferro's company, Coastal Consulting, to raise corporate money for TRM. She received a total of \$30,897 for her work. In essence, businesses that hoped to stay in the good graces of the U.S. House Majority Leader had to pay his daughter.

Chuck McDonald, who has worked for Texans for Lawsuit Reform, created the TAB mailers. McDonald has said that Hammond instructed him to put the logos of TRM and an NRA-sponsored group called the Law Enforcement Alliance of America (LEAA) on an unused TAB mailer.

In September 2002, TRM sent \$190,000 to the Republican National State Elections Committee (RNSEC). The money was corporate cash that would be illegal to give directly to candidates. Two weeks later, on October 4, RNSEC turned around and sent \$190,000 in seven contributions to Texas Republican House candidates. Critics charge TRM illegally laundered corporate money through the Republican Party. An RNC

spokesman says the group complied with all campaign finance laws. DeLay's lieutenant Jim Ellis freely admits that the \$190,000 TRM sent included corporate cash. He says they gave it to the Republican Party because, "we like what the party does."

Come election day, the Republican machine performed almost perfectly. All told, TAB, TRM, TLR, and LEAA had spent more than six million dollars in the 2002 election. Not only did the machine capture the statehouse, it did so with a margin of 88 seats, easily catapulting Tom Craddick into the Speakership. For their corporate patrons, it would turn out to be a cheap investment.

On January 14, 2003, the first day of the 78th Legislative Session, Tom Craddick was finally elected Speaker of the Texas House. His good friend Tom DeLay sat in the front row for the occasion. Five months later, at the end of the session, it would be abundantly clear just how valuable a Republican majority that voted as a bloc could be. When the leadership declared something a priority—even if it plainly went against the interests of their own constituents—Republicans in the House fell in line.

For DeLay, the purpose of Texans for a Republican Majority could be summed up in two words: congressional redistricting. The historic effort to redistrict in an off-census year without a court order has shattered the peace in the legislature. The famed bipartisanship of Governor George W. Bush is history. But despite the damage it is doing to the institution, and the disenfranchisement redistricting will wreak on rural Texas, those who took DeLay's money continue to try to do his bidding. As DeLay put it to reporters during the session: "I'm the majority leader and I want more seats."

Local business interests that supported the machine also scored big. During the session, for the first time in anyone's memory, telephone giant SBC's pet legislation died a quick death. The deregulation bill that would have given SBC dominance over the Texas high-speed Internet market never even got a hearing in committee. Its demise conservatively saved AT&T hundreds of millions of dollars.

Even with a protracted, divisive debate, a mammoth overhaul of the civil justice system sailed quickly to passage. This was the long-held dream of Texans for Lawsuit Reform and its sugar daddies such as Bob Perry. Tort reform also was likely a priority for all the businesses that contributed.

But the biggest winner in the 78th Legislature was the insurance industry. Big insurance gave well over a million dollars to the Republican machine. At the beginning of the session Democrats and a smattering of moderate Republicans had clamored for a bill to mandate rate rollbacks of at least 15 percent. (According to the Center for Economic Justice, homeowners insurance rates had surged an average of 58 percent over the past two years.) Instead of forcing the insurance companies to do right by consumers, Craddick and conservative Senate Republicans opted to allow them largely to police themselves. The final legislation had no guaranteed rate rollbacks. Instead, the companies would be required to submit their rates to the Texas Department of Insurance for approval. The final bill also allowed insurers to continue the controversial practice of using a person's credit history when writing policies.

On August 8, the Department of Insurance ordered rate rollbacks of an average of 13 percent. The department determined that rates were about \$510 million too high. Consumer advocates believe this is a lowball figure. They also doubt whether the

companies who are appealing the decision will ever reduce their rates by the mandated figure. Even with the rollbacks, the Center for Economic Justice estimates that, since 2001, the insurance industry will have managed to sock Texas consumers for \$1.3 billion.

Shortly after the election, Travis County District Attorney Ronnie Earle started to hear stories of the TAB campaign. Austin American Statesman reporter Laylan Copelin was the first to reveal many of the details about the TAB and TRM's election activities. Earle's investigation has seemed at times to track the veteran newsman's stories. What Earle heard and read worried him. The TAB effort appeared to cross the line that divides genuine efforts to educate voters from partisan political attacks funded with secret corporate money. After Hammond boasted of the TAB's efforts in a post-election press release, Earle says he decided the allegations against the TAB were worth looking into. "You can't break the law and brag about it," he has said.

In response to Earle's tenacious pursuit of the truth behind the TAB, Republicans have blasted the Democratic prosecutor for being on a witch hunt to undo an election his party lost handily.

On Jan. 16, 2003, the Travis County grand jury subpoenaed documents including ones that would identify the corporate donors to the TAB's mailer campaign. The grand jury also subpoenaed Hammond and the TAB contractor Chuck McDonald to testify. At first, Andy Taylor, the TAB attorney and spokesman, promised to cooperate with the inquiry. But when someone leaked news of the subpoenas, Taylor used it as an excuse to call into question the entire investigation.

The TAB refused to release any of the subpoenaed documents. Hammond declined to testify before the grand jury. Taylor and Hammond maintain that the TAB's mailers adhered to the U.S. Supreme Court's definition of "issue ads." That, according to Taylor, makes the ads legal free speech which, unlike electioneering, the government has no right to regulate. Taylor also contends that forcing the TAB to disclose its donor list constitutes an unconstitutional infringement on the corporate donors' First Amendment rights. He has compared the TAB's effort to protect its donor list to the NAACP's fight to keep its membership list secret in 1950s Alabama. "The point we were trying to make is that even though in theory grand jury proceedings are secret, in practice they're not," Taylor says. "So we felt like our donors' anonymity would be lost through cooperating with the grand jury."

Taylor's legal strategy has been a scattershot approach. In the eight months since the original subpoenas, he has filed about a dozen motions and asked five different courts to squash the grand jury investigation. Judges will almost never halt a grand jury investigation, and Taylor has lost every appeal. One witness to testify before the grand jury was John Colyandro, former executive director of TRM. His appearance stirred speculation that Earle is also investigating TRM. The district attorney's office would not comment, but DeLay aide Jim Ellis denies the group is under investigation.

Outside of the courtroom, Taylor and Earle have sparred through the media. In dueling briefings, Taylor—the slick, well-spoken Houston-based attorney—decries the injustice perpetrated against the TAB's right to free speech. Earle—the plodding, philosophical prosecutor from outside Fort Worth—warns that if the TAB gets away with using secret corporate money, the electoral system could become hopelessly corrupted.

The case currently sits before the state Court of Criminal Appeals on a procedural motion. Even with the TAB's considerable pull among influential Republicans, the Court of Criminal Appeals has already turned down Taylor's motions twice. Now, the nine-member court must decide if it will hear the TAB's plea to halt the grand jury investigation. If it does, Taylor will argue that the TAB shouldn't be subjected to the public embarrassment of Earle's investigation unless the district attorney can show that the TAB's ads were not simply issue-oriented and that election laws were broken. Earle will contend that the grand jury has a right to investigate potential crimes, period.

If the Court of Criminal Appeals rules that the grand jury inquiry can continue, Taylor says he will appeal to the U.S. Supreme Court.

Republicans note that this is not the first time corporate money has seeped into elections. And Democrats have used issue ads advantageously in the past. They are right on both counts. What made the 2002 election unique was the enormous amount of corporate money involved and the highly organized way it was applied.

Billy Clayton, a four-term House Speaker from 1975 to 1983, says he has never witnessed anything quite like the TRM-TAB campaign of 2002. "We just didn't do things like that," he says.

Clayton believes the high cost of elections and the never-ending lust for contributions corrupts politics and leads to voter apathy. He remembers his first House race cost him all of \$6,000 for the primary, runoff, and general election. Those days are, of course, long gone. To run for the state House now will cost as much as seven hundred thousand dollars. Aspire to the Senate? Be prepared to spend as much as two million. The spiraling cost of campaigns and pricey attack ads ensures that in modern politics the winning candidate will most always be the one with the most money. In this environment, enough corporate cash funneled into just the right race can swing an election, or even tilt the balance of power in a state legislature.

TRM's Jim Ellis says his boss Tom DeLay hopes to create similar political action committees for other states. The only obstacle in his path seems to be Ronnie Earle. And it's an open question how far Earle's investigation will go and what if any prosecution will come of it.

Based on the scant public testimony to date, it appears Earle's case is strongest on the issue of in-kind corporate contributions. Even in 1905, General Terrell recognized the corrosive impact of this kind of corporate influence. At issue now is whether TRM and the TAB used corporate money for political work that benefited their respective PACs.

Still, it seems doubtful that Earle can expose the true architects of the machine. Some believe a prime mover behind it is Perry's chief of staff, Mike Toomey. He was a lobbyist for Texans for Lawsuit Reform, AT&T, and big insurance. His schedule shows a meeting with Tom DeLay on the first day of the legislative session. And Toomey was also paid a small fee by TRM, presumably for consulting.

"He's always got his finger in the middle of everything but he never leaves any finger prints," notes one business lobbyist, who compares Toomey to Kaiser Soze, the elusive, all-powerful character in the movie *The Usual Suspects*.

Toomey did not respond to several requests for comment.

Regardless of how far he gets, Earle knows what's at stake. In his closing arguments in one of the TAB hearings, Earle spoke passionately about a return to the days a century ago when groups like the Federated Commercial Clubs of Texas wielded undue influence.

"TAB will take us back to the future to that time when the robber barons wielded power," he said. "The lessons from Enron and these other corporate scandals is that we really can't allow corporate wealth to translate into political power without abusing the public interest."

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